

★ NOV 13 2012 ★

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MICHELLE MIRANDA,

Plaintiff,

-against-

MILLER & MILONE, P.C. (s/h/a MILLER MILONE)

Defendant.

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AMON, Chief United States District Judge.

On April 11, 2012, *pro se* plaintiff Michelle Miranda filed the instant action against defendant Miller & Milone, P.C, alleging violations of the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.* On May 11, 2012, the Honorable Nicholas G. Garaufis granted defendant leave to file a motion to dismiss plaintiff's complaint and set a briefing schedule requiring defendant to serve its motion by June 11, 2012, plaintiff to serve her opposition by July 11, 2012, and defendant to file the fully briefed motion, together with any reply, by July 23, 2012. On May 30, 2012, the case was reassigned to this Court. Defendant submitted its motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(5) and 12(b)(6) on July 23, 2012, and informed the Court that defendant has not received plaintiff's opposition papers. By letter filed jointly with the motion to dismiss, defendant requested that the motion be granted on default, and that the Court dismiss plaintiff's complaint in its entirety.

On July 30, 2012, this Court issued an Order to Show Cause directing plaintiff to show cause why she failed to submit a response to defendant's motion and why the Court should not grant defendant's request to grant the motion on default and to dismiss the complaint in its en-

tirety. Plaintiff was given until August 13, 2012 to respond. To date, plaintiff has not responded to this Order to Show Cause, nor has she submitted any response to defendant's motion.

The Court grants defendant's unopposed motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). Under Federal Rule of Civil Procedure 12(b)(6), a complaint must allege "enough facts to state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Twombly*, 550 U.S. at 555). Plaintiff's complaint contains nothing more than conclusory allegations that defendant "willfully violated 15 U.S.C. § 1681b(f) by obtaining Plaintiff's consumer report without a permissible purpose as defined by 15 U.S.C. § 1681b." Compl. at 2. Plaintiff provides absolutely no factual allegations to support this conclusion. Moreover, plaintiff has failed to comply both with the scheduling order set by Judge Garaufis and with the Order to Show Cause issued by this Court, and has not sought leave to amend her complaint. Therefore, the Court grants defendant's motion to dismiss for failure to state a claim upon which relief may be granted. The clerk of court is directed to enter judgment in favor of defendant and close this case.

SO ORDERED.

Dated: Brooklyn, N.Y.  
November 13, 2011

/S/ Chief Judge Carol Bagley Amon  
Carol Bagley Amon  
Chief United States District Judge